

# Bainbridge Has No Misdemeanor Marijuana Law ... What to Do?

By Josh Farley

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## BAINBRIDGE ISLAND —

Those arrested on Bainbridge Island for small amounts of marijuana possession aren't prosecuted under any law dealing with pot.

"We can arrest someone for having drug paraphernalia," said Scott Weiss, an island officer, "But not for the marijuana."

Bainbridge Island's municipal code currently does not have a statute for marijuana at the misdemeanor level — under 40 grams. That's prompting a push by police, with help from prosecutors, to get the city council to take action.

"It's a simple fix," said Weiss, an officer who specializes in drug cases. "But right now on Bainbridge you can't be charged with misdemeanor marijuana possession."

Nonetheless, Claire Bradley, Kitsap County's chief deputy prosecutor who oversees both the county's district court and Bainbridge Island's municipal court, said marijuana cases forwarded to her office from Bainbridge police are charged criminally one way or another.

The prosecutor's office typically takes those cases and charges them with the statute Bainbridge Island does have — possession of drug paraphernalia. Paraphernalia, as a statute, can be liberally applied in such cases.

"Even if they have marijuana in their pocket, then the pocket becomes the paraphernalia," she said.

Bradley said the laws for misdemeanor marijuana possession and drug paraphernalia carry tantamount sentences: up to 90 days in jail.

Still, police would like to see a more accurate and honest description of the person's criminal conduct.

"Our officers are looking forward to the day this becomes implemented as a city municipal code," said Bainbridge Island Police Lt. Sue Shultz.

Weiss said a conviction for drug paraphernalia can also be misleading for an officer conducting a criminal history check. A conviction for marijuana under 40 grams is clear, he said, while one for possession of drug paraphernalia could mean the suspect has dabbled in any narcotic.

“It’s not representative of the law that they broke,” he said.

The city once had a misdemeanor marijuana statute, but it’s likely that a few years ago, when the state updated its own codes, Bainbridge’s marijuana statute wasn’t updated with it.

Councilman and current mayor Bob Scales said that while Bainbridge might not have a misdemeanor marijuana statute, the state does, and prosecutors could charge such cases in Kitsap County’s district court in Port Orchard, he said.

But the county’s district court is almost exclusively reserved for cases that occur in unincorporated areas of the county. Bradley said it’s “extremely rare” that a Bainbridge misdemeanor marijuana case would get filed there.

Councilwoman Hilary Franz said that a presentation by Bainbridge Police Chief Jon Fehlman and City Attorney Paul McMurray on March 3 left the council wanting data about how many cases are actually filed in the county’s district court.

The council is expecting to hear back from them later in the month with an answer, and it will decide how to proceed from there.

